



IT IS ORDERED

Date Entered on Docket: September 4, 2018

The Honorable David T. Thuma  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

KATY ANN SHEPHARD

Case No. 7-18-11371-TL

Debtor.

**DEFAULT ORDER GRANTING FREEDOM MORTGAGE CORPORATION RELIEF  
FROM AUTOMATIC STAY AND ABANDONMENT OF PROPERTY TO  
FREEDOM MORTGAGE CORPORATION LOCATED AT  
157 FRESNAL CANYON RD LA LUZ, NEW MEXICO 88337**

This matter came before the Court on the Motion for Relief from Automatic Stay for the Abandonment of Property to Freedom Mortgage Corporation, filed on July 18, 2018, (DOC 13) (the “Motion”) by Freedom Mortgage Corporation (“Freedom Mortgage”). The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

(a) On July 18, 2018, Freedom Mortgage served the Motion and a notice of the Motion (the “Notice”) on Arun A Melwani, Attorney for Debtor and Clarke C. Coll, Trustee (the “Trustee”) by use of the Court’s case management and electronic filing system for the transmission of notices, as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on the Debtor Katy Ann Shephard, by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

(b) The Motion relates to the property located at 157 FRESNAL CANYON RD La Luz, New Mexico 88337, more fully described as:

A tract of land in the Northeast Quarter of the Southwest Quarter of Section 32, Township 15 South, Range 11 East, NMPM, Otero County, New Mexico, described by metes and bounds as follows:

Beginning at the Northeast corner of said NE/14 SW/14 and going S00 degrees 08' 15" W along the East line of said NE1/4 SW1/4, a distance of 903.56 feet to the centerline of Fresnal Canyon Road;  
THENCE N71 degrees 40' 00" W along said centerline a distance of 210.89 feet to the centerline of a 30-foot road and utility easement;  
THENCE N04 degrees 04' 46" W along said centerline a distance of 86.97 feet;  
THENCE N54 degrees 50' 31" W along said centerline a distance of 160.82 feet;  
THENCE N14 degrees 46' 01" W along said centerline a distance of 57.13 feet;  
THENCE N77 degrees 02' 23" E along said centerline a distance of 48.63 feet;  
THENCE N88 degrees 23' 34" E along said centerline a distance of 81.59 feet to the centerline of Fresnal Creek;  
THENCE N16 degrees 04' 45" W along said centerline a distance of 55.74 feet;  
THENCE N68 degrees 50' 21" W along said centerline a distance of 95.81 feet;  
THENCE N00 degrees 08' 15" E a distance of 395.41 feet;  
THENCE N58 degrees 09' 44" E a distance of 43.01 feet;  
THENCE N58 degrees 13' 24" E a distance of 117.74 feet;  
THENCE N63 degrees 14' 49" E a distance of 41.46 feet;  
THENCE N89 degrees 04' 17" E a distance of 155.84 feet to the said place of beginning.

including any improvements, fixtures, and attachments, such as, but not limited to, mobile homes (the "Property"). If there is a conflict between the legal description and the street address, the legal description shall control.

(c) The Notice provided for an objection deadline of 21 days from the date of service of the Notice, to which three days was added pursuant to Bankruptcy Rule 9006(f);

(d) The Notice was sufficient in form and content;

(e) The objection deadline expired on August 13, 2018;

(f) As of August 28, 2018, neither the Debtor nor the Trustee, nor any other party in interest, filed an objection to the Motion;

(g) The Motion is well taken and should be granted as provided herein; and

(h) By submitting this Order to the Court for entry, the undersigned counsel for Freedom Mortgage certifies under penalty of perjury that, on the date this Order was presented Rose L. Brand & Associates, P.C. searched the data banks of the Department of Defense Manpower Data Center (“DMDC”), and found that the DMDC does not possess any information indicating that the Debtor is currently on active military duty of the United States.

IT IS THEREFORE ORDERED:

1. Pursuant to 11 U.S.C. §362(d), Freedom Mortgage and any and all holders of liens against the Property, of any lien priority, are hereby are granted relief from the automatic stay:

(a) To enforce its rights in the Property, including foreclosure of liens and a foreclosure sale, under the terms of any prepetition notes, mortgages, security agreements, and/or other agreements to which Debtor is a party, to the extent permitted by applicable non-bankruptcy law, such as by commencing or proceeding with appropriate action against the Debtor or the Property, or both, in any court of competent jurisdiction; and

(b) To exercise any other right or remedy available to it under law or equity with respect to the Property.

2. The Trustee is deemed to have abandoned the Property from the estate pursuant to 11 U.S.C. §554 as of the date of entry of this Order, and the Property therefore no longer is property of the estate. As a result, Freedom Mortgage need not name the Trustee as a defendant in any state court action it may pursue to foreclosure liens against the Property and need not notify the Trustee of any sale of the Property.

3. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of the Debtor, in the event that a discharge order is entered. The

Debtor can be named as a defendant in litigation to obtain judgment or to repossess the Property in accordance with applicable non-bankruptcy law, pursuant to any discharge order entered.

4. This Order does not waive Freedom Mortgage's claim against the estate for any deficiency owed by the Debtor after any foreclosure sale or other disposition of the Property. Freedom Mortgage may file an amended proof of claim in this bankruptcy case within thirty (30) days after a foreclosure sale of the Property, should it claim that Debtor owe any amount after the sale of the Property.

5. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

6. This order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

7. Freedom Mortgage is further granted relief from the stay to engage in loan modification discussions or negotiations or other settlement discussions with the Debtor and to enter into a loan modification with the Debtor.

XXX END OF ORDER XXX

RESPECTFULLY SUBMITTED:

ROSE L. BRAND & ASSOCIATES, P.C.

By: /s/Andrew P. Yarrington

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